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REPORT
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SURFACE FREIGHT FORWARDER DEREGULATION ACT OF 1985

JULY 31 (legislative day, JULY 16), 1985.—Ordered to be printed

Mr. DANFORTH, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 1124]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1124) to amend title 49, United States Code, to reduce regulation of surface freight forwarders, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill do pass.

PURPOSE OF BILL

The Interstate Commerce Commission (ICC) regulates the operations of the interstate surface freight forwarding industry. Surface freight forwarders were brought initially under ICC regulation in 1942; in 1950, the scope of this regulation was redefined by the designation of freight forwarders as common carriers.

With few exceptions, the surface freight forwarding industry remains subject to the same regulatory requirements originally imposed on the industry in 1942. At the same time, however, the freight forwarders' competitors, as well as the underlying modes of transportation used by freight forwarders, have had their regulatory burdens eased.

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This legislation amends title 49, United States Code, to enable freight forwarders which deal with general commodities to compete more effectively with other transportation services and to improve the financial health of the freight forwarding industry.

Background and Need

The domestic surface freight forwarding industry had its origins in the late 19th century. The freight forwarder industry developed as a consequence of the undependable service rendered by the railroads on small shipments traffic. Further, rail service was available only between freight stations at origin and destination, whereas forwarders at an early stage introduced pickup and delivery, thereby providing through door-to-door transportation. Since its inception, the freight forwarding industry has undergone substantial change.

A "freight forwarder" is defined in section 10102 of title 49, United States Code, as a common carrier—that is, a carrier which holds itself out to the general public to provide transportation of property for compensation. Freight forwarders are liable for any loss to or damage of the goods being transported and must charge published rates.

As currently defined, a freight forwarder: (1) assembles and consolidates, or provides for assembling and consolidating, shipments and performs or provides for break-bulk and distribution operations of the shipments; (2) assumes responsibility for the transportation from the place of receipt to the place of destination; and (3) uses for any part of the transportation a motor, water, or rail carrier subject to ICC jurisdiction.

Freight forwarders seek to provide a superior service at a competitive price for small shipments. They assemble less-than-carload (LCL) or less-than-truckload (LTL) shipments, consolidate the shipments into larger shipments, and then by linehaul transportation service from a for-hire carrier. Freight forwarders traditionally have concentrated on the long-haul market between major cities for the movement of small shipments. Forwarders use trailer-on-flatcar (TOFC or "piggyback") as the primary linehaul mode (for approximately 85 percent of shipments) and also use motor carriage. Frieght forwarders also may provide pickup and delivery service for customers.

Freight forwarders' revenues are derived from the difference between the lower rates they are able to obtain from the carriers that move the goods in rail carload (CL) or truckload (TL) amounts and the rate the shipper pays—which is usually the same or somewhat lower than the normal small shipment rate which would apply if the shipper dealt directly with the carrier.

It is difficult to quantify the scope of the freight forwarder industry because the ICC no longer requires forwarders to file earnings information. During the 1970s, the number of Class A freight forwarders (i.e., forwarders with annual gross operating revenues of $100,000 or more) grew rapidly after a long period of relative stability. Two factors accounted for much of this growth in the industry: (1) the licensing of forwarders handling used household goods, which previously were exempt from ICC regulation; and (2) the

granting of operating permits to air freight forwarders to enable them to conduct surface operations beyond prescribed terminal areas. At the same time, however, some of the established general commodities surface freight forwarders were merging their operations.

The following tables provide a brief profile of the operations of the freight forwarding industry over the years.

NUMBER OF EACH TYPE OF CLASS A FREIGHT FORWARDER BY YEAR

	General commodity	Household goods	Air freight	Other and unknown	Total
1965	51	2	1	7	61
1969	55	6	1	3	65
1973	57	36	12	5	110
1977	56	51	15	10	132

CLASS A FORWARDERS OF GENERAL COMMODITIES AS A PERCENTAGE OF ALL CLASS A FORWARDERS FILING REPORTS WITH THE INTERSTATE COMMERCE COMMISSION

[Dollar amounts in thousands]

Year	Total number class A forwarders	Number class A forwarders of general commodities	Percent forwarders of general commodities to total	Operating revenues all class A forwarders	Operating revenues class A forwarders of general commodities	Percent revenues of forwarders of general commodities to total
1945	51	51	100	$37,687	$37,687	100
1949	58	58	100	57,389	57,389	100
1953	60	60	100	92,633	92,633	100
1957	61	61	100	111,804	111,804	100
1961	64	64	100	143,052	143,052	100
1965	61	56	86	155,450	152,583	98
1969	65	55	85	211,124	200,985	95
1973	110	57	52	326,400	219,639	67
1977	132	56	42	615,199	275,230	45

NUMBER OF SHIPMENTS HANDLED BY EACH TYPE OF CLASS A FREIGHT FORWARDER BY YEAR

[In thousands]

	General commodity	Household goods	Air freight	Other and unknown	Total
1965	15,750	8	105	278	16,141
1969	14,723	8	760	28	15,519
1973	9,603	166	3,832	23	13,624
1977	6,730	225	8,662	164	15,781

TONNAGE HANDLED BY EACH TYPE OF CLASS A FREIGHT FORWARDER BY YEAR

[In thousands]

	General commodity	Household goods	Air freight	Other and unknown	Total
1965	4,241	3	8	83	4,335
1969	4,342	8	75	18	4,443
1973	3,971	188	305	26	4,490
1977	3,922	314	495	66	4,797

Source: James Sloss, et al., "The Domestic Surface Freight Forwarding Industry: Structure and Performance in a Regulated Scenario," Massachusetts Institute of Technology, July 1980.

The freight forwarding industry continues to be dominated by a few large forwarders. While the number of freight forwarders over the years has increased, due to liberalized entry procedures at the ICC, the forwarders' volume of freight has not kept pace with the increasing number of firms. In fact, according to the Department of Transporation (DOT) freight forwarders have lost one-half of their business since 1978. This is in contrast to the recent experience of other transportation intermediaries, such as shipper agents, shippers' associations, and transportation brokers, whose traffic has increased greatly. These intermediaries are subject to substantially less regulation.

A shipper agent collects TL shipments and consolidates them into multiple trailer lots in order to take advantage of the quantity discounts offered by most railroads on TOFC service. Shipper agents represent a rapidly growing segment of the transportation industry and are not subject to ICC regulations as long as they provide service only at the origin or destination of a shipment. Shipper agents are profit-making firms. They do not assume liability for loss and damage of freight.

A shippers' association is organized to perform in much the same manner as a freight forwarder. A shippers' association is a group of shippers who pool their LTL shipments and then buy transportation from for-hire carriers, thereby receiving the lower rates and the better service accorded to large shipments; shippers' association use TOFC as their primary linehaul mode. Shippers' associations only can transport freight belonging to their members; as long as they adhere to this requirement, shippers' associations are not covered by any ICC regulation. They are nonprofit associations, with transportation saving distributed to the shipper members. Shippers' associations collectively represent the most significant competition to surface freight forwarders; these associations have enjoyed a steady growth rate over the years.

A transportation broker acts as an agent for a motor carrier or carriers by finding shippers to purchase the motor carrier services. Brokers provide a service to shippers by finding carriers to haul their freight at attractive prices. Brokers generally are paid a commission by the trucking firm for each shipment brokered. Other brokers simply add a markup to the carrier's charge and pass this along to the shipper.

Brokers which arrange transportation of general commodities are regulated by the ICC; a person may become a broker if that person is fit, willing, and able. Brokers specializing in arranging motor carrier transportation for ICC-exempt agricultural products, however, are not subject ICC control. Brokers assume no liability for loss and damage of freight shipped, publish no rates, and rely on motor carriage for the linehaul mode. In recent years, the number of brokers has increased substantially and brokers continue to be a growing segment of the transportation industry.

Historically, freight forwarders have been attractive to shippers primarily because of the faster service the shipper receives, along with more competitive rates. Freight forwarders also hold benefits

for carriers: using a freight forwarder enables carriers to avoid transporting unprofitable small shipments directly.

Surface freight forwarders currently are subject to the following five major types of ICC regulation.

ENTRY

The ICC must issue a permit to a person seeking to provide freight forwarder service if the ICC finds that: (1) the person is fit, willing, and able to provide the transportation or service and to comply with the regulations of the ICC; and (2) the transportation or service to be provided is or will be consistent with the public interest and the national transportation policy.

In recent years, the ICC has had a more liberal entry policy with respect to freight forwarders. According to the ICC, since enactment of the Motor Carrier Act of 1980, the Commission has granted operating authority to approximately 450 freight forwarders. To date, the ICC has granted operating authority to 41 freight forwarders in fiscal year 1985.

RATEMAKING

Freight forwarders must file tariffs with the ICC; proposed rates may not become effective until 30 days after the tariff is filed. Rates pertaining to deregulated TOFC movements, however, may be set on an expedited basis.

Freight forwarders also may use the zone of pricing freedom established by the Motor Carrier Act of 1980, within which forwarders may set their rates without ICC interference. Specifically, the ICC may not declare unreasonable a rate which is set independently and is no more than 15 percent higher or 15 percent lower than the rate in effect a year earlier, indexed to the change in the Producers Price Index during the previous year. (The 1980 act originally established a 10 percent up or down zone, but also authorized the ICC to increase the percentages of the zone by 5 percent in any 1-year period if competitive conditions warrant such action. The ICC has used this authority once.)

In addition, freight forwarders have antitrust immunity for their collective ratemaking activities. In May 1985, however, the Freight Forwarders Tariff Bureau was dissolved due to a lack of membership.

SECURITIES LIABILITY

The ICC is authorized to require freight forwarders to file with the ICC a bond, insurance policy or other type of security to cover bodily injury to, or death of, an individual resulting from the negligent operation or maintenance of motor vehicles by or under the control of the freight forwarder and loss of, or damage to, property for which the freight forwarder provides services.

In addition, there are three important provisions which deal more directly with the cargo liability and claims settlement issue. Section 10730 of title 49, United States Code, specifies requirements for rates and liability based on value. Section 11706 of the title provides a statute of limitations for settlement of overcharge claims

against freight forwarders. Lastly, section 11707(a) of that title, the "Carmack amendment", specifies liability requirements for freight forwarders for loss of or damage to freight handled by freight forwarders.

LIMITATIONS ON OWNERSHIP

Current law provides that a freight forwarder may not acquire control of a rail, water, or motor carrier. These carriers, however, may control a freight forwarder. In fact, many forwarders are subsidiaries of motor carriers, with a few motor carriers under joint control with forwarders through holding companies.

FEDERAL-STATE RELATIONS

The ICC is required under title 49, United States Code, to prescribe intrastate freight forwarder rates, classifications, rules, or practices, when the ICC finds that the relevant State standard causes unreasonable discrimination against or imposes an unreasonable burden on interstate or foreign commerce.

Much of the current ICC regulation has hampered the operations of the interstate surface freight forwarding industry. In testimony before the Subcommittee on Surface Transportation, Philip Haseltine, Deputy Assistant Secretary of DOT, noted that freight forwarders "have no economic characteristics warranting regulation for efficiency reasons such as substantial fixed costs and scale economies." ICC Chairman Reese Taylor noted that:

> Existing statutory provisions are outdated and constitute cumbersome impediments to the promotion of efficient and competitive freight forwarder service. These protective provisions inhibit the ability of freight forwarders to meet the demands of the marketplace and are counterproductive to achieving the goals of the National Transportation Policy. They restrict the range of price and service options available to the shipping public, result in the inefficient use of equipment, and limit the growth of intermodal transportation.

In his testimony, Mr. Haseltine pointed out that freight forwarders were brought under ICC regulation in 1942 only to provide consistency with the regulation of other freight modes. That rationale is no longer valid. Due to the regulatory reform contained in the Motor Carrier Act of 1980 and the Staggers Rail Act of 1980, as well as the less regulated nature of transportation intermediaries such as brokers, shipper agents, and shippers' associations, freight forwarders now are competing on unequal terms with other freight transportation modes.

In recent years, regulatory burdens facing the freight forwarder industry have been reduced to some degree. In 1981, the ICC authorized independent affiliates of surface freight forwards to provide exempt consolidated services. In 1982, the ICC authorized freight forwarders to enter into rail contracts and to take advantage of procedures to remove restrictions on their operating authorities. Most recently, the ICC allowed the Freight Forwarders Tariff Bureau to publish a rule that would provide for the averag-

ing of rates without specifically publishing the actual applicable rates in the tariff; this decision, however, is being challenged in court.

Nevetheless, existing ICC regulation—including entry and exit controls, rate regulation, limitations on permissible control relationships between freight forwarders and other carriers, and court intervention, among others—in the words of Chairman Taylor, have "prevented the Commission from adopting a regulatory approach that would enhance to the maximum extent possible competition and efficiency within the surface freight forwarding industry."

Representatives of the sector of the surface freight forwarding industry which deals with general commodities testified that, while deregulation of that industry would not guarantee the success of the freight forwarding industry or its survival, the industry would be guaranteed *not* to survive without deregulation. At present, the current regulatory burdens imposed on forwarders have created a situation in which forwarders are unable to coordinate their services with their unregulated, underlying carriers. This makes it impossible for freight forwarders to respond to changes in the rates and services charged by such carriers.

Freight forwarders are both competitors with and users of motor carriers and rail carriers. According to the general commodities freight forwarding industry, this presents two types of problems. First, freight forwarders are at a competitive disadvantage with rail and motor carriers in the area of pricing. The unregulated motor or rail carrier can quote a rate or price to a shipper at any time. The regulated freight forwarder, however, must publish its rates and file them with the ICC, and the rates are subject to a statutory notice period before they can become effective. Although forwarders are able to file freight-all-kinds rates on only a 1-day notice, the freight forwarding industry testified that the paperwork and communications required to file and publish that rate actually results in a 2- to 5-day process. Further, the filing and publishing of rates is a cost that is borne only by the regulated forwarder. According to the industry, this expense can be thousands of dollars a year for a single forwarder.

Second, because the forwarder is an intermodal carrier, it relies upon and is closely integrated with underlying motor and rail carriers. As a result of the Staggers Rail Act of 1980, the ICC deregulated TOFC movements. As a result, the railroads' TOFC services are completely deregulated while the surface freight forwarders, the largest users of TOFC service, remain regulated. The railroads are able to raise or lower rates and change rules on such issues as loading requirements and claims at a moment's notice. Forwarders, however, who must publish rates with a notice period, cannot respond in a timely manner. In fact, forwarders frequently must accept freight at a published rate based on a rate or rules of an underlying carrier that will have changed before the forwarder has had a chance to accommodate the new rate or rules in its rate. The general commodities surface freight forwarding industry maintains, therefore, that it must be allowed to operate under the same rules as its competitors and underlying carriers in order for the freight forwarding industry to continue to operate in the public in-

terest as a viable transportation service for small shipments freight.

In contrast to the view of the general commodities surface freight forwarding industry, however, freight forwarders dealing with household goods do not support deregulation. According to testimony presented to the Subcommittee on Surface Transportation by the Household Goods Forwarders Association of America, Inc., and the Household Goods Forwarders Tariff Bureau, deregulation at this time would adversely affect household goods forwarders by placing them at a competitive disadvantage compared to household goods motor carriers and brokers, which would continue to be regulated. These forwarders maintained that, as long as there is continued regulation of motor carriers and brokers of household goods, it is in the public interest and the interests of the household goods forwarder industry that household goods forwarders continue to be regulated. (While S. 1124 as introduced would have deregulated the household goods freight forwarding industry, the version of this legislation ordered reported by the Committee retains current ICC regulation over this segment of the freight forwarder industry.)

Testimony presented to the Subcommittee also showed strong support for continued regulation of general commodities surface freight forwarder operations with respect to the liability of forwarders for loss of or damage to cargo as well as retention of the statute of limitations within which shippers may settle overcharge claims against freight forwarders. Shipper group representatives were especially adamant about the need for retention of the provisions of sections 10730 and 11707 of title 49, United States Code, which establish liability standards for carriers, and the provisions of section 11706, which establish the statute of limitations within which shippers may file for overcharges by freight forwarders.

Legislative History

On May 17, 1985, the Surface Transportation Subcommittee conducted a hearing on S. 1124. Testimony was presented by the DOT, the ICC, members of the freight forwarder and transportation broker industries, and representatives of various shipper groups.

On July 18, the Committee ordered reported S. 1124, with an amendment in the nature of a substitute, by a voice vote.

Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, DC, July 25, 1985.

Hon. John C. Danforth,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed S. 1124, the Surface Freight Forwarder Deregulation Act of

1985, as ordered reported by the Senate Committee on Commerce, Science, and Transportation, July 18, 1985. We estimate that this bill could result in savings of about $0.1 million annually to the federal government, and would have no impact on the budgets of state or local governments.

The purpose of this bill is to deregulate most of the surface freight forwarding industry, that is, transportation intermediaries that assemble small shipments and buy linehaul transportation service from for-hire carriers. S. 1124 would eliminate the Interstate Commerce Commission's (ICC) authority over most freight forwarder tranportation, eliminate tariff filing requirements, and remove economic entry requirements. Based on information from the ICC, we estimate that this could save the agency approximately $0.1 million annually, and reduce their need for appropriations accordingly. In fiscal year 1985, the appropriation for the ICC totaled $48 million, and the President requested $51 million for fiscal year 1986.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

RUDOLPH G. PENNER, *Director.*

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported.

NUMBER OF PERSONS COVERED

S. 1124, as reported, eliminates ICC regulation of surface freight forwarders which deal with general commodities, with the exception of cargo liability and claims settlement procedures, which are retained. Freight forwarders dealing with general freight, therefore, will be subject to substantially less ICC regulation.

Freight forwarders handling household goods remain subject to current ICC regulations covering their operations. Household goods freight forwarders are not affected by the provisions of S. 1124, as reported.

ECONOMIC IMPACT

S. 1124 eliminated Federal regulation of the general commodities freight forwarder industry, with the exception of cargo liability and claims settlement procedures. This legislation should not have an inflationary impact on the Nation's economy. In fact, S. 1124 may produce cost savings for various sectors of the economy.

In addition, S. 1124's reduction of the ICC's regulatory authority over the freight forwarding industry could lead eventually to possible staff reductions at the ICC. While the majority of the ICC personnel who handle the various aspects of surface freight forwarder regulation will be needed to continue the ICC's regulation of household goods freight forwarders and the residual regulation of general commodities freight forwarders, some ICC personnel reductions

may be possible, thereby resulting in a cost savings to the Government.

The economic impact of this legislation on general commodities freight forwarder services is expected to be positive. Elimination of the majority of ICC regulations will enable the general commodities freight forwarding industry to compete more effectively for freight, thereby strengthening the financial health of this industry. Users of freight forwarders, as a result of increased competition, should have a greater variety of price and service options from which to choose, which should result generally in lower prices.

The economic effect of S. 1124 on freight forwarders' competitors and underlying carriers should not be substantial. While general commodities freight forwarders are expected to increase their share of freight traffic, this should not result in a significant traffic diversion from any one mode or transportation intermediary.

S. 1124 provides no authorizations of appropriations.

PRIVACY

S. 1124 will not have any adverse impact on the personal privacy of the individuals affected.

PAPERWORK

S. 1124 does not impose any additional paperwork or reporting requirements. Paperwork for general commodities freight forwarders should decrease as a result of this legislation due to the virtual elimination of ICC regulations governing this industry. This paperwork reduction is most evident with respect to the elimination of the requirements that freight forwarders submit applications for operating authority and file tariffs at the ICC. By eliminating such current regulatory requirements, general commodities freight forwarders will no longer be required to pay the costs associated with compliance with the Federal regulations.

SECTION-BY-SECTION ANALYSIS

SECTION 1.—SHORT TITLE

The first section states the short title of the bill, the "Surface Freight Forwarder Deregulation Act of 1985".

SECTION 2.—PURPOSE OF THE ACT

This section states that the purpose of this act is to reduce burdensome and unnecessary government regulations and to ensure the competitiveness and efficacy of transportation services of surface freight forwarders in the United States.

SECTION 3.—CONGRESSIONAL FINDINGS

This section notes the following findings: (1) that a safe, sound, and competitive surface freight forwarder industry is important to the national transportation system; (2) that the Federal statutes regulating freight forwarders are outdated and must be revised to reflect transportation needs and realities; (3) that protective regulation has resulted in anticompetitive pricing and has restricted the

range of price and service options available to shippers; (4) that the ICC's remaining freight forwarder regulatory responsibilities should be legislatively eliminated; and (5) that legislative and resulting changes should be implemented with the least amount of disruption consistent with achieving the reforms enacted.

SECTION 4.—DEFINITIONS

This section amends section
to modify certain definitions.

Paragraphs (1) and (2) amend the definitions of "carrier" and "contract carrier" to include freight forwarders; freight forwarders also continue to be defined as common carriers in section 10102(4). These changes are intended to ensure that freight forwarders continue to be able to enter into rate contracts with other transportation modes.

Paragraph (3) amends the definition of "freight forwarder". Paragraph (3)(A) clarifies that air freight forwarders are not subject to ICC jurisdiction. Paragraphs (3)(B) and (C) make technical changes. Paragraph (3)(D) deletes the requirement that freight forwarders use, for any part of the transportation, a carrier subject to ICC jurisdiction. The Committee intends that freight forwarders have the maximum flexibility possible in arranging transportation. Paragraph (3)(E) adds a new paragraph (10) to section 10102 to define a "household goods freight forwarder". A household goods freight forwarder is defined as a forwarder of household goods, unaccompanied baggage, and/or used automobiles.

SECTION 5.—INTERSTATE COMMERCE COMMISSION ADMINISTRATION

Section 5(a) amends section 10328(b)(2) of title 49, United States Code, to eliminate the ICC's authority to provide special notice procedures regarding general commodities freight forwarder operating authority applications. This provision is no longer required, since general commodities freight forwarders would not be required under the provisions of S. 1124, to file operating authority applications. Household goods freight forwarders, however, remain subject to the provisions of this section.

Subsection (b) amends section 10329 of title 49, United States Code, to delete the requirement that general commodities freight forwarders designate agents on whom service of notice is a proceeding before, and of actions of, the ICC may be made. Household goods freight forwarders remain subject to this requirements.

SECTION 6.—JURISDICTION

Section 6(a) amends section 10521(a) of title 49, United States Code, to eliminate ICC jurisdiction over the procurement of motor carrier transportation by general commodities freight forwarders. The Committee intends that freight forwarders have maximum flexibility in their procurement of freight transportation service. It is important to emphasize that this legislation does not deregulate the operations of motor carriers, common or contract, who provide service to or for freight forwarders. Section 6 of S. 1124, which excepts from the ICC's general jurisdiction the procurement of motor

carrier transportation by a freight forwarder, is intended only to eliminate the ICC's jurisdiction over the freight forwarder. The rates and services of the motor carrier providing the procured service are still subject to the same scope and degree of regulation by the ICC as they were prior to the amendments and revisions provided in S. 1124.

In addition, household goods freight forwarders remain subject to the provisions of current law with respect to the procurement of motor carrier transportation.

Subsection (b) amends section 10523 of title 49, United States Code, to eliminate the exemption from ICC jurisdiction for motor vehicle transportation in a terminal area provided by a general commodities freight forwarder, by a person as an agent or under other arrangement for a freight forwarder, or as incidental to the service provided by a freight forwarder. This exemption is no longer needed because all transportation by general commodities forwarders will be deregulated. Transportation provided by a household goods freight forwarder, or its agents, or as incidental to the service provided by the forwarder, or its agents, or as incidental to the service provided by the forwarder, will continue to have a specific exemption from ICC regulation.

Subsection (c) amends section 10561 of title 49, United States Code, to eliminate ICC jurisdiction over interstate and foreign general commodities freight forwarder service. This subsection retains ICC jurisdiction over interstate or foreign service undertaken by, authorized for, or required of a household goods freight forwarder. This subsection also retains the current exemption from ICC regulation for service undertaken by a household goods freight forwarder using transportation of an air carrier subject to chapter 20 of title 49, United States Code, or incidental-to-air transportation of property or passengers.

Subsection (d)(1) repeals section 10562 of title 49, United States Code, which provides exemptions from ICC regulation for four types of freight forwarder service: (1) service provided by, or under the direction of, a cooperative association or by a federation of cooperative associations; (2) service subject to jurisdiction which is provided with respect to only one of the following categories—ordinary livestock, fish, agricultural or horticultural commodities, or used household goods; (3) service of a shipper or group of shippers in consolidating or distributing freight on a nonprofit basis for the shipper or members of the group; or (4) service of an agent of a shipper in consolidating or distributing pool cars when the service is provided for the shipper only in a terminal area in which the service is performed. All freight forwarder service will be deregulated. Subsection (d)(2) amends the analysis of chapter 105 of title 49, United States Code, to reflect the fact that section 10562 has been repealed.

SECTION 7.—RATES, TARIFFS AND VALUATIONS

Subsection (a) amends section 10704 of title 49, United States Code, to eliminate the ICC's authority to prescribe rates, classifications, rules, or practices to be followed by general commodities

freight forwarders. The ICC retains this authority, however, with respect to household goods freight forwarders.

Subsection (b) amends section 10706 of title 49, United States Code. Subsection (b)(1) makes a technical change. Subsection (b)(2) eliminates antitrust immunity for the collective ratemaking activities of general commodities freight forworders. Household goods freight forwarders retain this antitrust immunity.

Subsection (c) amends section 10708 of title 49, United States Code, to remove general commodities freight forwarders from the zone of rate freedom provisions included under the Motor Carrier Act of 1980. Household goods freight forwarders will continue to be able to set rates independently within the zone without ICC interference.

Subsection (d) amends section 10722(d)(2) to eliminate the provision allowing freight forwarders to provide services related to the movement of property without charge for officers and employees (and their families) of motor, water, and rail carriers, or a telegraph, telephone, or cable company.

Subsection (e) amends section 10725 of title 49, United States Code, to delete general commodities freight forwarders from provisions regarding special freight forwarder rates. These rates apply to transportation of LCL or LTL shipments to a place for further movement as part of a CL or TL shipment and transportation of LCL or LTL shipments moving from a place to which those shipments have moved as part of a CL or TL shipment. Household goods freight forwarders remain subject to these provisions.

Subsection (f) amends section 10730 of title 49, United States Code. Subsection (f)(1) clarifies that tariff filing requirements for freight forwarders will now pertain only to household goods freight forwarders. Subsection (f)(2) provides that a general commodities freight forwarder may establish rates for the transportation of property under which the liability of the carrier for such property is limited to a value established by written declaration of the shipper or by written agreement between the carrier and shipper if that value would be reasonable under the circumstances surrounding the transportation. The Committee understands the importance to the shipping community of clearly-established carrier liability on shipments.

Subsection (g) amends section 10741(c) of title 49, United States Code, to eliminate the requirement that motor, rail, or water common carriers not subject a freight forwarder to unreasonable discrimination. This provision remains in effect with respect to household goods freight forwarders.

Subsection (h) amends section 10743(b)(2) of title 49, United States Code, to delete the provision that a motor common carrier being used by a freight forwarder may extend credit for transporting property for the U.S. Government, a State, a territory or possession of the United States, or a political subdivision of any of them. This provision remains in effect for household goods freight forwarders.

Subsection (i) amends section 10749 of title 49, United States Code. Subsection (i)(1) deletes the stipulation that freight forwarders may use only the following types of transportation outside of terminal areas: (1) a rail, express, motor, or water common carrier

or motor contract carrier of property providing transportation subject to ICC jurisdiction; or (2) an air carrier. These restrictions continue to apply to household goods freight forwarders. Paragraphs (2) and (3) of subsection (1) make corresponding changes in the heading of section 10749 and the section analysis of chapter 107 of title 49, United States Code.

Section 7(j) amends section 10762 of title 49, United States Code, to eliminate the requirement that general commodities freight forwarders file tariffs with the ICC. These freight forwarders now will be able to set their rates competitively and immediately; this should enhance greatly the efficiency of freight forwarder operations and enable them to complete more effectively with other transportation modes. Household goods freight forwarders will continue to be required to file tariffs and meet the statutory notice requirements.

Subsection (k)(1) amends section 10766 of title 49, United States Code, to delete provisions pertaining to general commodities freight forwarder traffic agreements with respect to joint loading of traffic and contracts between freight forwarders and motor common and contract carriers. These provisions continue to apply to household goods freight forwarders.

While this amendment deletes provisions allowing general commodities freight forwarders to contract with motor common carriers and motor contract carriers, the Committee intends that freight forwarders will continue to be able to enter into such contracts, as well as contracts with other transportation modes. These contracts, however, no longer will be subject to ICC jurisdiction and the general commodities freight forwarders will not be required to file tariffs with the ICC as part of these contracts.

Paragraphs (2) and (3) of subsection (k), respectively, provide conforming changes to the heading of section 10766 and the analysis of chapter 107 of title 49, United States Code.

SECTION 8.—LICENSING

Subsection (a)(1) amends section 10923 of title 49, United States Code, to eliminate the requirement that a general commodities freight forwarder obtain an operating permit from the ICC. Household goods freight forwarders will continue to be required to obtain such authority from the ICC and show that they are fit, willing, and able to perform the service to be authorized by the permit and to comply with subtitle IV of title 49, United States Code, and regulations of the Commission. The ICC also must continue to find that the service proposed by a household goods freight forwarder is, or will be, consistent with the public interest and the national transportation policy. Paragraphs (2) and (3) of subsection (a) amend the heading of section 10923 and the item relating to section 10923 in the section analysis of chapter 109 of title 49, United States Code, respectively, to show that the provisions of section 10923 now will apply only to household goods freight forwarders.

Section (b) amends section 10925 of title 49, United States Code, to remove general commodities freight forwarders from provisions pertaining to the effective periods of freight forwarder operating permits. Household goods freight forwarders will remain subject to

the provisions of this section, which allow the Commission to suspend, amend, or revoke all or part of a freight forwarder operating permit under certain specified conditions.

Section (c) amends section 10926 of title 49, United States Code, to remove general commodities freight forwarders from provisions setting out conditions under which freight forwarder operating authority may be transferred. Household goods freight forwarders will continue subject to the provisions of this section.

Subsection (d) amends section 10927(c)(2) of title 49, United States Code, dealing with securities filed with the ICC to cover loss of or damage to property. This section continues to authorize the ICC to require all freight forwarders to file with the Commission a bond, insurance policy, or other type of security approved by the Commission, as is the case under current law. In the case of general commodities freight forwarders, the security must be sufficient to pay, not more than the amount of the security, for loss of, or damage to, property for which the freight forwarder provides service.

Subsection (e) amends section 10930(b) of title 49, United States Code, to remove the restriction against a person operating as a general commodities freight forwarder if that person is a rail, motor or water common carrier providing transportation subject to ICC jurisdiction. This subsection also removes restrictions against a general commodities freight forwarder conducting direct rail, water, or motor carrier transportation subject to ICC jurisdiction. This subsection also eliminates prohibitions against a person operating as a general commodities freight forwarder if: (1) the principal business of the person is manufacturing and selling and/or buying and selling articles and commodities, and the service of a freight forwarder (or similar assembling, consolidating, and shipping service is provided by the person for its own business) is commonly used to transport the articles or commodities; or (2) the person controls, is controlled by, or is under common control with such a person. Household goods freignt forwarders remain subject to the restrictions contained in section 10930.

Subsection (f)(1) amends section 10933 of title 49, United States Code, to delete references to general commodities freight forwarders with respect to conditions under which freight forwarder service may be abandoned. As amended, section 10933 refers only to household goods freight fowarders. Paragraphs (2) and (3) of subsection (f) amend the heading of section 10933 and the item relating to section 10933 in the section analysis of chapter 109 of title 49, United States Code respectively, to reflect this fact.

SECTION 9.—OPERATIONS OF CARRIERS

Subsection (a) amends section 11101(b) of title 49, United States Code, to eliminate the ICC's ability to prescribe requirements for continuous and adequate service provided by general commodities freight forwarders. As amended, the section authorizes the ICC to prescribe such requirements only for motor common carriers and household goods freight forwarders.

Subsection (b)(1) amends section 11127 of title 49, United States Code, to delete references to general commodities freight forward-

ers with respect to the conduct of their services in emergency situations. The provisions of this section continue to apply to household goods freight forwarders. Paragraphs (2) and (3) of subsection (b) amend the heading of section 11127 and the item relating to section 11127 in the section analysis of chapter 111 of title 49, Untied States Code respectively, to reflect this fact.

Subsection (c) amends section 11141(1) of title 49, United States Code, to delete the reference to general commodities freight forwarders in the definition of "carrier" contained in section 11141, pertaining to ICC reports and records. Section 11141, as amended, continues to reference household goods freight forwarders.

SECTION 10.—FINANCE

Subsection (a) amends section 11323 of title 49, United States Code, to remove the prohibition against a general commodities freight forwarder owning or controlling a motor, rail, or water carrier. This prohibition will continue to apply to household goods freight forwarders.

Subsection (b) amends the heading of section 11323 of title 49, United States Code, to clarify that the limitation on ownership of other carriers pertains only to household goods freight forwarders. Subsection (c) amends the item relating to section 11323 in the section analysis of chapter 113 of title 49, United States Code, to reflect this fact.

SECTION 11.—FEDERAL-STATE RELATIONS

Subsection (a) amends section 11501 of title 49, United States Code. Subsection (a)(1) amends section 11501(a) to limit the provisions of that subsection to household goods freight forwarders; as amended, section 11501(a) requires the ICC to prescribe the rate, classification, rule, or practice for transportation or service provided by a household goods freight forwarder when the ICC finds that a rate, classification, rule, or practice of a State causes unreasonable discrimination against those persons or localities in interstate or foreign commerce, as opposed to persons in intrastate commerce, or causes unreasonable discrimination against or imposes an unreasonable burden on interstate or foreign commerce.

Subsection (a)(2) adds a new subsection (g) to section 11501. This new subsection provides that no State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to interstate rates, routes or services of any freight forwarder. The Committee intends that States and other local governments not be allowed to exercise regulatory authority over the interstate operations of general commodities freight forwarders that are being vacated by the ICC under this legislation.

Subsection (b) amends section 11505(b) of title 49, United States Code, to delete the reference to general commodities freight forwarders with respect to the authority of a State to bring a civil action to enjoin the abandonment of freight forwarder service. As amended, this provision applies only to household goods freight forwarders.

SECTION 12.—ENFORCEMENT: INVESTIGATIONS, RIGHTS, AND REMEDIES

Subsection (a) amends section 11705 of title 49, United States Code, to include specifically general commodities freight forwarders under the provisions concerning rights and remedies of persons injured by carriers with respect to liability for damages.

Subsection (b) amends section 11706 of title 49, United States Code. General commodities freight forwarders will continue to be subject to a statute of limitations for the commencement of legal action by persons seeking to recover charges for transportation or service, overcharges, or other damages. The statute of limitations for all actions to be brought against general commodities freight forwarders, however, is reduced to 2 years, not the 3-year period allowed under current law for some types of claims. The Committee understands the need for shippers to have a specified time within which they are able to bring claims against a freight forwarder. The Committee seeks to ensure, however, that this period not become burdensome for general commodities freight forwarders and for that reason has reduced the time limitation for certain types of claims. The statute of limitations for household goods freight forwarders remains unchanged from current law.

Subsection (c) amends section 11707(a) of title 49, United States Code, to continue to subject general commodities freight forwarders to the liability provisions of the Carmack amendment. The Committee understands the significance of these liability provisions to the shipping community as well as to the freight forwarder industry itself. The Committee believes it is in the best interests of shippers and forwarders to have cargo liability limits clearly defined.

Subsection (d)(1) amends section 11708(a) of title 49, United States Code, to delete the reference to general commodities freight forwarders with respect to civil actions to be brought against freight forwarder service in violation of sections 10921–10924, 10927, 10930–10932, 11323 of title 49, United States Code. Such civil actions now apply only with respect to motor carriers and household goods freight forwarders.

Paragraphs (2) and (3) of subsection (d) amend the heading of section 11708 and the item relating to section 11708 in the section analysis of chapter 117 of title 49, United States Code, respectively, to show that the private enforcement provisions of this section apply only to motor carrier and household goods freight forwarder licensing.

SECTION 13.—CIVIL AND CRIMINAL PENALTIES

Subsection (a) amends section 11904(d)(1) of title 49, United States Code, to delete the applicability of the provisions of this subsection to general commodities freight forwarders. The fines provided in this subsection, as amended, for rate and discrimination violations apply only to household goods freight forwarders.

Subsection (b)(1) amends section 11908 of title 49, United States Code, to delete the applicability of the provisions of this section to general commodities freight fowarders. As amended, this section provides for fines only for abandonment of service violations by household goods freight forwarders. Paragraphs (2) and (3) of subsection (b) amend the heading of section 11908 and the item relat-

ing to section 11908 in the section analysis of chapter 119 of title 49, United States Code, respectively, to reflect this fact.

Subsection (c) amends section 11909(d) of title 49, United States Code, to make the fines for recordkeeping and reporting violations applicable only to household goods freight forwarders. Subsection (c) deletes reference to general commodities freight forwarders.

Subsection (d) amends section 11910(a)(4) of title 49, United States Code, to delete reference to general commodities freight forwarders from the provision providing fines for unlawful disclosure of information. The provisions of section 11910(a)(4) will continue to apply to household goods freight forwarders.

SECTION 14.—EFFECTIVE DATE

This section provides that the provisions of this act shall become effective 60 days after the date of enactment of this act.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 49, UNITED STATES CODE

Section 10102 of that title

§ 10102. Definitions

In this subtitle—

(1) * * *

(2) "carrier" means a common carrier and a contract carrier, *and a freight forwarder.*

(3)–(5) * * *

(6) "contract carrier" means a motor contract carrier and a water contract carrier, *and a freight forwarder.*

(7)–(8) * * *

(9) "freight forwarder" means a person holding itself out to the general public (other than as an express, pipeline, rail, sleeping car, motor, or water carrier) to provide transportation of property for compensation, *excluding persons using transportation of an air carrier subject to chapter 20 of this title,* and in the ordinary course of its business—

(A) assembles and consolidates, or provides for assembling and consolidating, shipments and performs or provides for break-bulk and distribution operations of the shipments; *and*

(B) assumes responsibility for the transportation from the place of receipt to the place of destination[; and].

[(C) uses for any part of the transportation a carrier subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, II, or III of chapter 105 of this title.]

(10) "household good freight forwarder" means a freight forwarder of one or more of the following commodities: (A) household goods; (B) unaccompanied baggage; or (C) used automobiles;

[(10)] *(11)* "highway" means a road, highway, street, and way in a State.

[(11)] *(12)* "household goods" means—

(A) personal effects and property used or to be used in a dwelling when a part of the equipment or supply of such dwelling and such other similar property as the Commission may provide by regulation; except that this subparagraph shall not be construed to include property moving from a factory or store, except such property as the householder has purchased with intent to use in his dwelling and which is transported at the request of, and the transportation charges paid to the carrier by, the householder;

(B) furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals or other establishments when a part of the stock, equipment, or supply of such stores, offices, museums, institutions, hospitals, or other establishments and such other similar property as the Commission may provide by regulation; except that this subparagraph shall not be construed to include the stock-in-trade of any establishment, whether consignor or consignee, other than used furniture and used fixtures, except when transported as incidental to moving of the establishment, or a portion thereof, from one location to another; and

(C) articles, including objects of art, displays, and exhibits, which because of their unusual nature or value require the specialized handling and equipment usually employed in moving household goods and such other similar articles as the Commission may provide by regulation; except that this subparagraph shall not be construed to include any article, whether crated or uncrated, which does not, because of its unusual nature or value, require the specialized handling and equipment usually employed in moving household goods.

[(12)] *(13)* "motor carrier" means a motor common carrier and a motor contract carrier.

[(13)] *(14)* "motor common carrier" means a person holding itself out to the general public to provide motor vehicle transportation for compensation over regular or irregular routes, or both.

[(14)] *(15)* "motor contract carrier" means—

(A) a person, other than a motor common carrier, providing motor vehicle transportation of passengers for compensation under continuing agreements with a person or a limited number of persons—

(i) by assigning motor vehicles for a continuing period of time for the exclusive use of each such person; or

(ii) designed to meet the distinct needs of each such person; and

(B) a person providing motor vehicle transportation of property for compensation under continuing agreements with one or more persons—

(i) by assigning motor vehicles for a continuing period of time for the exclusive use of each such person; or

(ii) designed to meet the distinct needs of each such person.

[(15)] *(16)* "motor private carrier" means a person, other than a motor carrier, transporting property by motor vehicle when—

(A) the transportation is as provided in section 10521(a)(1) and (2) of this title;

(B) the person is the owner, lessee, or bailee of the property being transported; and

(C) the property is being transported for sale, lease, rent, or bailment, or to further a commercial enterprise.

[(16)] *(17)* "motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway in transportation, or a combination determined by the Commission, but does not include a vehicle. locomotive, or car operated only on a rail, or a trolley bus operated by electric power from a fixed overhead wire, and providing local passenger transportation similar to street-railway service.

[(17)] *(18)* "person", in addition to its meaning under section 1 of title I, includes a trustee, receiver, assignee, or personal representative of a person.

[(18)] *(19)* "pipeline carrier" means a person providing pipeline transportation for compensation.

[(19)] *(20)* "rail carrier" means a person providing railroad transportation for compensation.

[(20)] *(21)* "railroads" includes—

(A) a bridge, car float, lighter, and ferry used by or in connection with a railroad;

(B) the road used by a rail carrier and owned by it or operated under an agreement; and

(C) a switch, spur, track, terminal, terminal facility, and a freight depot, yard, and ground, used or necessary for transportation.

[(21)] *(22)* "rate" means a rate, fare, or charge for transportation.

[(22)] *(23)* "sleeping car carrier" means a person providing sleeping car transportation for compensation.

[(23)] *(24)* "State" means a State of the United States and the District of Columbia.

[(24)] *(25)* "tariff", when used in reference to a contract carrier, means a schedule.

[(25)] *(26)* "transportation" includes—

(A) a locomotive, car, vehicle, motor vehicle, vessel, warehouse, wharf, pier, dock, yard, property, facility, instrumentality, or equipment of any kind related to the movement of passengers or property, or both, regardless of ownership or an agreement concerning use; and

(B) services related to that movement, including receipt, delivery, elevation, transfer in transit, refrigeration, icing, ventilation, storage, handling, and interchange of passengers and property.

[(26)] *(27)* "United States" means the States of the United States and the District of Columbia.

[(27)] *(28)* "vessel" means a watercraft or other artificial contrivance that is used, is capable of being used, or is intended to be used, as a means of transportation by water.

[(28)] *(29)* "water carrier" means a water common carrier and a water contract carrier.

[(29)] *(30)* "water common carrier" means a person holding itself out to the general public to provide water transportation for compensation.

[(30)] *(31)* "water contract carrier" means a person, other than a water common carrier, providing water transportation for compensation under an agreement with another person, including transportation on a vessel provided to a person other than a carrier subject to the jurisdiction of the Commission under this subtitle when the vessel is used to transport only the property of the other person.

Section 10328 of that title

§ 10328. Intervention

(a) * * *

(b)(1) * * *

(2) The Commission may adopt, after a rulemaking proceeding in accordance with the provisions of section 553 of title 5, a special procedure for providing interested parties reasonable notice of applications to provide transportation as a motor or water common or contract carrier or *household goods* freight forwarder, or to be a broker for transportation, under sections 10922, 10923, 10924, and 10928 of this title, or applications for removal of operating restrictions under section 10922 of this title. The special procedure may consist of printing and distributing to subscribers an independent publication to provide notice of such applications, if the Commission finds, as a result of its rulemaking proceedings, that such method of providing notice would not be unduly burdensome to the public.

Section 10329 of that title

§ 10329. Service of notice in Commission proceedings

(a)(1) * * *

(2) A motor carrier, a broker, a water carrier, or a *household goods* freight forwarder providing transportation or service subject to the jurisdiction of the Commission under subchapter II, III, or IV of chapter 105 of this title shall designate an agent by name and post office address on whom service of notices in a proceeding before, and of actions of, the Commission may be made.

(b) * * *

(c) Except as otherwise provided, notices of the Commission shall be served as follows:

(1)–(2) * * *

(3) A notice to a water carrier or *houshold goods* freight forwarder is served personally or by mail on the water carrier or *household goods* freight forwarder or its designated agent. Service by mail on the designated agent is made at the address filed for the agent. When notice is given by mail, the date of mailing is considered to be the time when notice is served. If a water carrier or *household goods* freight forwarder does not have a designated agent, service may be made by posting the notice in the office of the Secretary of the Commission.

(d) In a proceeding involving the lawfulness of classifications, rates, or practices of (1) a rail, express, sleeping car, or pipeline carrier that has not designated an agent under this section, or (2) a *household goods* freight forwarder, service of notice of the Commission on an attorney in fact who filed the tariff for the carrier constitutes service of notice on the carrier.

(e) * * *

CHAPTER 105. JURISDICTION

SUBCHAPTER I. RAIL, RAIL-WATER, EXPRESS, AND PIPELINE CARRIER TRANSPORTATION

Sec.
10501. General jurisdiction.
10502. Express carrier transportation.
10503. Railroad and water transportation connections and rates.
10504. Exempt rail mass transportation.
10505. Authority to exempt rail carrier transportation.

SUBCHAPTER II. MOTOR CARRIER TRANSPORTATION

10521. General jurisdiction.
10522. Exempt transportation between Alaska and other States.
10523. Exempt motor vehicle transportation in terminal areas.
10524. Transportation furthering a primary business.
10525. Exempt motor carrier transportation entirely in one State.
10526. Miscellaneous motor carrier transportation exemptions.
10527. Written contracts pertaining to certain interstate movements by motor vehicle.
10528. Mixed loads of regulated and unregulated property.
10529. Limited authority over cooperative associations.
10530. Certificates of registration for certain foreign carriers.

SUBCHAPTER III. WATER CARRIER TRANSPORTATION

10541. General jurisdiction.
10542. Exempt bulk transportation.
10543. Exempt incidental water transportation.
10544. Miscellaneous water carrier transportation exemptions.

SUBCHAPTER IV. FREIGHT FORWARDER SERVICE

10561. General jurisdiction.
[10562. Exempt freight forwarder service.] *10562. Repealed.*

Section 10521 of that title

§ 10521. General jurisdiction

(a) Subject to this chapter and other law, the Interstate Commerce Commission has jurisdiction over transportation by motor carrier and the procurement of that transportation, *except by a freight forwarder (other than a household goods freight forwarder),* to the extent that passengers, property, or both, are transported by motor carrier—

(1) between a place in—

(A) a State and a place in another State;

(B) a State and another place in the same State through another State;

(C) the United States and a place in a territory or possession of the United States to the extent the transportation is in the United States;

(D) the United States and another place in the United States through a foreign country to the extent the transportation is in the United States; or

(E) the United States and a place in a foreign country to the extent the transportation is in the United States; and

(2) in a reservation under the exclusive jurisdiction of the United States or on a public highway.

(b) * * *

Section 10523 of that title

§ 10523. Exempt motor vehicle transportation in terminal areas

(a)(1) The Interstate Commerce Commission does not have jurisdiction under this subchapter over transportation by motor vehicle provided in a terminal area when the transportation—

(A) is a transfer, collection, or delivery;

(B) is provided by—

(i) a rail carrier subject to the jurisdiction of the Commission under subchapter I of this chapter;

(ii) a water carrier subject to the jurisdiction of the Commission under subchapter III of this chapter;

(iii) a *household goods* freight forwarder subject to the jurisdiction of the Commission under subchapter IV of this chapter;

(C) is incidental to transportation provided by the carrier or service provided by the *household goods* freight forwarder that is subject to the jurisdiction of the Commission under any of those subchapters.

(2) Transportation exempt from the jurisdiction of the Commission under paragraph (1) of this subsection is subject to the jurisdiction of the Commission under subchapter I of this chapter when provided by such a rail carrier, under subchapter III of this chapter when provided by such a water carrier, and under subchapter IV of this chapter when provided by such a *household goods* freight forwarder.

(b)(1) Except to the extent provided in paragraph (2) of this subchapter, the Commission does not have jurisdiction under this subchapter over transportation by motor vehicle provided in a terminal area when the transportation—

(A) is a transfer, collection, or delivery; and

(B) is provided by a person as an agent or under other arrangement for—

(i) a rail carrier or express carrier subject to the jursidiction of the Commission under subchapter I of this chapter;

(ii) a motor carrier subject to the jurisdiction of the Commission under this subchapter;

(iii) a water carrier subject to the jurisdiction of the Commission under subchapter III of this chapter;

(iv) a *household goods* freight forwarder subject to the jurisdiction of the Commission under subchapter IV of this chapter.

(2) Transportation exempt from the jurisdiction of the Commission under paragraph (1) of this subsection is considered transportation provided by the carrier or service provided by the *household goods* freight forwarder for whom the transportation was provided and is subject to the jurisdiction of the Commission under subchapter I of this chapter when provided for such a rail carrier of express carrier, under this subchapter when provided for such a motor carrier, under subchapter III of this chapter when provided for such a water carrier, and under subchapter IV of this chapter when provided for such a *household goods* freight forwarder.

Section 10561 of that title

§ 10561. General jurisdiction

(a) Subject to this chapter and other law, the *household goods* Interstate Commerce Commission has jurisdiction over service that a freight forwarder—

(1) undertakes to provide; or

(2) is authorized or required under this subtitle to provide; to the extent transportation is provided in the United States and is between—

(A) a place in a State and a place in another State, even if part of the transportation is outside the United States;

(B) a place in a State and another place in the same State through a place outside the State; or

(C) a place in the United States and a place outside the United States.

(b) The Commission does not have jurisdiction under subsection (a) of this section over service undertaken by a *household goods* freight forwarder using transportation—

(1) of an air carrier subject to chapter 20 of this title;

(2) by motor vehicle exempt under section 10526(a)(8) of this title.

Section 10562 of that title

[§ 10562. Exempt freight forwarder service

[The Interstate Commerce Commission does not have jurisdiction under this subchapter over—

[(1) service provided by, or under the direction of, a cooperative association (as defined by section 15(a) of the Agriculture Marketing Act (12 U.S.C. 1141j(a)) or by a federation of cooperative associations if the federation has no greater power or purposes than a cooperative association;

[(2) service subject to the jurisdiction of the Commission and provided with respect to only one of the following categories:

[(A) ordinary livestock;

[(B) fish (including shellfish);

[(C) agricultural or horticultural commodities (other than manufactured products thereof); or

[(D) used household goods;

[(3) the service of a shipper or a group of shippers in consolidating or distributing freight on a nonprofit basis, for the shipper or members of the group to secure carload, truckload, or other volume rates; or

[(4) the service of an agent of a shipper in consolidating or distributing pool cars when the service is provided for the shipper only in a terminal area in which the service is performed.]

CHAPTER 107. RATES, TARIFFS, AND VALUATIONS

SUBCHAPTER I. GENERAL AUTHORITY

Sec.
10701. Standards for rates, classifications, through routes, rules, and practices.

* * * * * * *

SUBCHAPTER III. LIMITATIONS

10741. Prohibitions against discrimination by common carriers.
10742. Facilities for interchange of traffic.
10743. Payment of rates.
10744. Liability for payment of rates.
10745. Continuous carriage of freight.
10746. Transportation of commodities manufactured or produced by a rail carrier.
10747. Transportation services or facilities furnished by shipper.
10748. Transportation of livestock by rail carrier.
10749. Exchange of services and limitation on use of common carriers by *household goods* freight forwarders.
10750. Demurrage charges.
10751. Business entertainment expenses.

SUBCHAPTER IV. TARIFFS AND TRAFFIC

10761. Transportation prohibited without tariff.
10762. General staff requirements.
10763. Designation of certain routes by shippers or Interstate Commerce Commission.
10764. Arrangements between carriers: copy to be filed with Interstate Commerce Commission.
10765. Water transportation under arrangements with certain other carriers.
10766. [Freight] *Household goods freight* forwarder traffic agreements.

* * * * * * *

Section 10704 of that title

§ 10704. Authority and criteria: rates, classifications, rules, and practices prescribed by Interstate Commerce Commission

(a) * * *

(b)(1) When the Commission decides that a rate charged or collected by—

(A) a motor common carrier for providing transportation subject to its jurisdiction under subchapter II of chapter 105 of this title by itself, with another motor common carrier, with a rail, express, or water common carrier, or any of them;

(B) a water common carrier for providing transportation subject to its jurisdiction under subchapter III of chapter 105 of this title; or

(C) a *household goods* freight forwarder for providing service subject to its jurisdiction under subchapter IV of chapter 105 of this title;

or that a classification, rule, or practice of that carrier, does or will violate this chapter, the Commission shall prescribe the rate (including a maximum or minimum rate, or both), classification, rule, or practice to be followed.

(2) * * *

(3) If the carrier is a motor or water common carrier or a *household goods* freight forwarder, the Commission shall also consider the need, in the public interest, of adequate and efficient transportation or service by that carrier at the lowest cost consistent with providing that transportation or service.

(4) If the carrier is a motor common carrier or a *household goods* freight forwarder, the Commission shall also consider the inherent advantages of transportation by motor common carrier or the inherent nature of *household goods* freight forwarding, respectively.

(c)–(f) * * *

Section 10706 of that title

§ 10706. Rate agreements: exemption from antitrust laws

(a)(1) * * *

(2)(A) A rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title that is a party to an agreement of at least 2 rail carriers or an agreement with a class of carriers referred to in subsection [(c)(1)(B)–(E)] *(d)(1)(B)–(E),* of this section, that relates to rates (including charges between rail carriers and compensation paid or received for the use of facilities and equipment), classifications, divisions, or rules related to them, or procedures for joint consideration, initiation, publication, or establishment of them, shall apply to the Commission for approval of that agreement under this subsection. The Commission shall approve the agreement only when it finds that the making and carrying out of the agreement will further the transportation policy of section 10101a of this title and may require compliance with conditions necessary to make the agreement further that policy as a condition of its approval. If the Commission approves the agreement, it may be made and carried out under its terms and under the conditions required by the Commission, and the Sherman Act (15 U.S.C. 1, et seq.) the Clayton Act (15 U.S.C. 12, et seq.), the Federal Trade Commission Act (15 U.S.C. 41, et seq.), sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9), and the Act of June 19, 1936, as amended (15 U.S.C. 13, 13a, 13b, 21a) do not apply to parties and other persons with respect to making or carrying out the agreement. However, the Commission may not approve or continue approval of an agreement when the conditions required by it are not met or if it does not receive a verified statement under subparagraph (B) of this paragraph.

(B) * * *

(3)–(5) * * *

(b)–(c) * * *

(d)(1) In this subsection, carriers are classified as follows:

(A) Rail, express, and sleeping car carriers are a class.
(B) Pipeline carriers are a class.
(C) Motor carriers are a class.
(D) Water carriers are a class.
(E) [Freight] *Household goods freight* forwarders are a class.
(2) * * *
(e)–(i) * * *

Section 10708 of that title

§ 10708. Investigation and suspension of new nonrail carrier rates, classifications, rules, and practices

(a)–(c) * * *
(d)(1) Notwithstanding any other provision of this title, the Commission may not investigate, suspend, revise, or revoke any rate proposed by a motor common carrier of property or *household goods* freight forwarder on the grounds that such rate is unreasonable on the basis that is is too high or too low if—
(A) the carrier notifies the Commission that it wishes to have the rate considered pursuant to this subsection; and
(B) the aggregate of increases and decreases in any such rate is not more than 10 percent above the rate in effect one year prior to the effective date to the proposed rate, nor more than 10 percent below the lesser of the rate in effect on July 1, 1980, for a service not provided by such carrier on such date, such rate on the date such rate first become effective), or the rate in effect one year prior to the effective date of the proposed rate.
(2) The Commission, by rule, may increase the percentages specified in paragraph (1)(B) of this subsection for any group of motor common carriers of property or *household goods* freight forwarders if it finds that—
(A) there is sufficient actual and potential competition to regulate rates; and
(B) there are benefits to (i) carriers or *household goods* freight forwarders, (ii) shippers, and (iii) the public from further rate flexibility;
except that the Commission may not increase such percentages by more than 5 percentage points during any one-year period.
(3)–(6) * * *
(e)–(g) * * *

Section 10722 of that title

§ 10722. Special passenger rates

(a)–(c) * * *
(d)(1) * * *
(2) A common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of chapter 105 of this title may provide transportation without charge for officers and employees (and their families) of that carrier, another carrier (by exchange of passes or tickets), or a telegraph, telephone, or cable company. A *household goods* freight forwarder providing service subject to the jurisdiction of the Commission under sub-

chapter IV of that chapter may provide services related to movement of property for those individuals without charge. However, transportation of, or service provided for, household goods must be due to a change in the place of employment of an officer or employee while employed by that carrier.

Section 10725 of that title

§ 10725. Special freight forwarder rates

(a) * * *

(b) A rate and related classification and rule established under subsection (a) of this section applies to *household goods* freight forwarders and other persons using common carrier transportation under like conditions and may differ from other rates and related classifications and rules that contemporaneously apply to the same common carrier transportation when the difference is justified by a difference in the respective conditions under which that transportation is used. A rate referred to in subsection (a) (1) or (2) of this section may not be established to cover the line-haul transportation between the principal concentration place and the principal break-bulk place.

(c) When establishing a rate, classification, rule, or practice, a motor common carrier providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title may consider the type of property tendered to it by a *household goods* freight forwarder for transportation when the property is in parcels that do not exceed 70 pounds in weight or 100 inches in length and girth combined. The carrier may establish the lowest rate for the transpotation that allows it to receive adequate compensation for transporting the property.

Section 10730 of that title

§ 10730. Rates and liability based on value

(a) The Interstate Commerce Commission may require or authorize a carrier (including a motor common carrier of household goods but excluding any other motor common carrier of property and excluding any rail carrier) providing transportation or service subject to its jurisdiction under subchapter I, II, or IV of chapter 105 of this title, to establish rates for transportation of property under which the liability of the carrier for that property is limited to a value established by written declaration of the shipper, or by a written agreement, when that value would be reasonable under the circumstances surrounding the transportation. A rate may be made applicable under this section to livestock only if the livestock is valuable chiefly for breeding, racing, show purposes, or other special uses. A tariff filed with the Commission *by a household goods freight forwarder* under subchapter IV of this chapter shall refer specifically to the action of the Commission under this section.

(b)(1) Subject to the provisions of paragraph (2) of this subsection, a motor common carrier providing transportation or service subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title *or a freight forwarder* may, subject to the provisions of this chapter (including, *with respect to a motor carrier,* the

general tariff requirements of section 10762 of this title), establish rates for the transportation of property (other than household goods) under which the liability of the carrier for such property is limited to a value established by written declaration of the shipper or by written agreement between the carrier and shipper if that value would be reasonable under the circumstances surrounding the transportation.

(2) * * *

(c) * * *

Section 10741 of that title

§ 10741. Prohibitions against discrimination by common carriers

(a)–(b) * * *

(c) A common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of that chapter may not subject a *household goods* freight forwarder providing service subject to the jurisdiction of the Commission under subchapter IV of that chapter to unreasonable discrimination whether or not the *household goods* freight forwarder is controlled by that carrier.

(d)–(f) * * *

Section 10743 of that title

§ 10743 Payments of rates

(a) * * *

(b)(1) * * *

(2) Such a carrier (including a motor common carrier being used by a *household goods* freight forwarder) may extend credit for transporting property for the United States Government, a State, a territory or possession of the United States, or a political subdivision of any of them.

Section 10749 of that title

§ 10749. Exchange of services and limitation on use of common carriers by *household goods* freight forwarders

(a) A common carrier, or a motor contract carrier of property, providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title may contract with a telephone, telegraph, or cable company to exchange services.

(b) A *household goods* freight forwarder providing service subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title may use a carrier, including a carrier referred to in this subsection, to transfer, collect, or deliver in a terminal area. However, to provide other services, a *household goods* freight forwarder may only use—

(1) a rail, express, motor, or water common carrier, or motor contract carrier of property, providing transportation subject

to the jurisdiction of the Commission under chapter 105 of this title including—

(A) a motor common carrier providing exempt transportation under section 10525 or 10526(a)(8) of this title; or

(B) a water common carrier, or motor contract carrier of property, providing exempt transportation under section 10542(a) of this title or transportation between places in Alaska or Hawaii and between those places and other places in the United States;

(2) an air carrier subject to the jurisdiction of the Civil Aeronautics Board under the Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.); or

(3) the Alaska Railroad.

Section 10762 of that title

§ 10762. General tariff requirements

(a)(1) * * *

(2) Carriers that publish tariffs under paragraph (1) of this subsection shall keep them open for public inspection. A rate contained in a tariff filed by a common carrier providing transportation or service subject to the jurisdiction of the Commission under subchapter II, III, or IV of chapter 105 money of the United States. A tariff filed by a motor or water contract carrier or by a *household goods* freight forwarder providing transportation or service subject to the jurisdiction of the Commission under subchapter II, III, or IV of that chapter, respectively, may not become effective for 30 days after it is filed.

(b)–(g) * * *

Section 10766 of that title

§ 10766. [Freight] *Household goods freight* forwarder traffic agreements

(a) A *household goods* freight forwarder providing service subject to the jurisdiction of the Interstate Commerce Commission under subchapter IV of chapter 105 of this title may agree with another *household goods* freight forwarder to load traffic jointly between places served under this subtitle. However, the Commission may cancel, suspend, or require changes in the agreement when the Commission finds the agreement is inconsistent with the transportation policy of section 10101 of this title.

(b) A *household goods* freight forwarder providing service subject to the jurisdiction of the Commission under that subchapter may contract with motor common carriers, and motor contract carriers of property, providing transportation subject to the jurisdiction of the Commission under subchapter II of that chapter, to provide transportation for the forwarder. A copy of that contract must be filed with the Commission. The contract may govern use by the *household goods* freight forwarder of the services and instrumentalities of the motor common carrier or the motor contract carrier of property and the compensation to be paid for the transportation. However, the parties to a contract must establish reasonable conditions and compensation that are consistent with the transportation

policy of section 10101 of this title and do not unreasonably discriminate against a party or another *household goods* freight forwarder. When the Commission finds that a contract, or its conditions or compensation, under this subsection is or will be inconsistent with this subsection, the Commission shall prescribe consistent conditions and compensation.

(c) The Commission may begin a proceeding under this section on its own initiative or on complaint.

CHAPTER 109. LICENSING

SUBCHAPTER I. RAILROADS AND FERRIES

Sec.
10901. Authorizing construction and operation of railroad lines.

* * * * * * *

SUBCHAPTER II. OTHER CARRIERS AND MOTOR CARRIER BROKERS

10921. Requirement for certificate, permit, or license.
10922. Certificates of motor and water common carriers.
10923. Permits of motor and water contract carriers and *household goods* freight forwarders.
10924. Licenses of motor carrier brokers.
10925. Effective periods of certificates, permits, and licenses.
10926. Transfers of certificates and permits.
10927. Security of motor carriers, brokers, and freight forwarders.
10928. Temporary authority for motor and water carriers.
10929. Temporary authority for previously exempt water transportation.
10930. Limitations on certificates and permits.
10931. Motor common carriers providing transportation entirely in one State.
10932. Motor carrier savings provisions.
10933. Authorizing abandonment of *household goods* freight forwarder service.
10934. Household goods agents.
10935. Discontinuing bus transportation in one State.

Section 10923 of that title

§ 10923. Permits of motor and water contract carriers and *household goods* freight forwarders

(a) Except as provided in this section and section 10930 of this title, the Interstate Commerce Commission shall issue a permit to a person authorizing the person to provide transportation subject to the jurisdiction of the Commission under subchapter II or III of chapter 105 of this title as a motor contract carrier or water contract carrier, respectively, or to provide service subject to that jurisdiction under subchapter IV of chapter 105 as a *household goods* freight forwarder, if the Commission finds that—

(1) the person is fit, willing and able—

(A) to provide the transportation or service to be authorized by the permit; and

(B) to comply with this subtitle and regulations of the Commission; and

(2) the transportation or service to be provided under the permit is or will be consistent with the public interest and the transportation policy of section 10101 of this title.

(b)(1) A person must file an application with the Commission for a permit to provide transportation as a contract carrier or to provide service as a *household goods* freight forwarder. The Commis-

sion may approve any part of the application or deny the application. The application must—

(A) be under oath;

(B) contain information required by Commission regulations; and

(C) be served on persons designated by the Commission.

(2) The provisions of paragraph (2) of subsection (a) of this section shall not apply to applications under this section for authority to provide transportation as a motor contract carrier of passengers. The requirement that persons issued permits under this section as motor contract carriers of passengers be fit, willing, and able means safety fitness and proof of minimum financial responsiblity under section 18 of the Bus Regulatory Reform Act of 1982.

(3) In deciding whether to approve the application of a person for a permit as a motor contract carrier of property, the Commission shall consider—

(A) the nature of the transportation proposed to be provided;

(B) the effect that granting the permit would have on the protesting carriers if such grant would endanger or impair their operations to an extent contrary to the public interest;

(C) the effect that denying the permit would have on the person applying for the permit, its shippers, or both; and

(D) the changing character of the requirements of those shippers.

(4) No motor carrier or property may protest an application to provide transportation as a motor contract carrier of property filed under this section unless—

(A)(i) it possesses authority to handle, in whole or in part, the traffic for which authority is applied;

(ii) it is willing and able to provide service that meets the reasonable needs of the shippers involved; and

(iii) it has performed service within the scope of the application during the previous 12-month period or has, actively in good faith, solicited service within the scope of the application during such period;

(B) it has pending before the Commission an application filed prior in time to the application being considered for substantially the same traffic; or

(C) the Commission grants leave to intervene upon a showing of other interests that are not contrary to the transportation policy set forth in section 10101 (a) of this title.

(5)(A) The provisions of paragraph (2) of subsection (a) of this section and paragraph (3) of this subsection shall not apply to applications under this section for authority to provide transportation by motor vehicle of food and other edible products (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, agricultural limestone and other soil conditioners, and agricultural fertilizers if—

(i) such transportation is provded with the owner of the motor vehicle in such vehicle, except in emergency situations; and

(ii) after issuance of the permit, such transportation (measured by tonnage) does not exceed, on an annual basis, the transportation provided by the motor vehicle (measured by ton-

nage) which is exempt from the jurisdiction of the Commission under section 10526(a)(6) of this title and the owner of the motor vehicle certifies to the Commission annually that he is complying with the provisions of this subparagraph and provides to the Commission such information and records as the Commission may require.

(B) The Commission shall streamline and simplify, to the maximum extent practicable, the process for issuance of permits to which the provisions of subparagraph (A) of this paragraph apply.

(6) With respect to applications of persons for permits as motor contract carriers of property, the Commission may not make a finding relating to the public interest under subsection (a)(2) of this section which is based upon general findings developed in rulemaking proceedings.

(7) The Commission may not deny any part of an application for a *household goods* freight forwarder permit filed by a corporation controlled by, or under common control with—

(A) a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of chapter 105 of this title, because of the relationship between the corporation and that carrier; and

(B) a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 only because the service to be provided by the corporation will compete with service provided by another *household goods* freight forwarder subject to subchapter IV of that chapter,

(c) Each permit issued to a person—

(1) to provide transportation as a motor contract carrier is subject to section 10927(a) of this title and shall specify the transportation to be provided by the carrier;

(2) to provide transportation as a water contract carrier shall specify the transportation to be provided by the carrier; and

(3) to provide service as a *household goods* freight forwarder shall specify the nature or general description about which the service is to be provided, the area in which, and the areas between which, the service may be provided by the *household goods* freight forwarder.

(d)(1) The Commission may prescribe necessary conditions under which a contract carrier or *household goods* freight forwarder provides transportation or service, except that in the case of a motor contract carrier of property, the Commission may not require such carrier to limit its operations to carriage for a particular industry or within a particular geographic area. The Commission may prescribe the conditions when the permit is issued and at any time thereafter.

(2) The permit for a motor contract carrier shall specify necessary conditions, including each person or class of persons (and, in the case of a motor contract carrier of passengers, the number of persons) for which the carrier may provide transportation—

(A) to ensure that the carrier provides transportation as a motor contract carrier and within the scope of the permit; and

(B) to carry out requirements established by the Commission under this subtitle.

(3) Subject to the permit and its conditions, a motor contract carrier may substitute or add to its equipment and facilities as requests for its transportation develop. The Commission may not prescribe a condition preventing—

(A) a water contract carrier from substituting or adding contracts within the scope of the permit to satisfy the requirements of business development and public demand; and

(B) a water contract carrier or *household goods* freight forwarder from adding to its equipment and facilities, and transportation or service, as the case may be, within the scope of the permit to satisfy the requirements of business development and public demand.

(e) A motor contract carrier of property may deliver to or receive from a rail carrier a trailer moving in trailer-on-flat-car service at any point on the route of the rail carrier if the motor carrier is authorized to serve the origin and destination points of the traffic.

Section 10925 of that title

§ 10925. Effective periods of certificates, permits and licenses

(a) Each certificate, permit, and license issued under section 10922, 10923, or 10924 of this title is effective from the date specified in it and remains in effect except as otherwise provided in this section.

(b) On application of the holder of a certificate, permit, or license, the Interstate Commerce Commission may amend or revoke any part of the certificate, permit, or license. On complaint or on its own initiative and after notice and an opportunity for a proceeding, the Commission may suspend, amend, or revoke any part of a certificate, permit, or license—

(1) if a motor carrier, broker, or *household goods* freight forwarder, for willful failure to comply with this subtitle, a regulation or order of the Commission, or a condition of its certificate, permit, or license; and

(2) if a water carrier, for willful failure to comply with section 10701(a) or 11101(a) of this title, a regulation or order of the Commission, or a condition of its certificate or permit.

(c)(1) Except on application of the holder, the Commission may revoke a certificate or permit of a motor carrier or *household goods* freight forwarder, or a license of a broker, only after the Commission has issued an order to the holder under section 11701 of this title requiring compliance with this subtitle, a regulation of the Commission, or a condition of the certificate, permit, or license of the holder, and the holder willfully does not comply with the order.

(2) Except on application of the holder, the Commission may suspend, amend, or revoke a certificate or permit of a water carrier only after the Commission has issued an order to the holder under section 11701 of this title requiring compliance with section 10701(a) or 11101(a) of this title, and the holder willfully does not comply with the order.

(3) The Commission may act under paragraph (1) or (2) of this subsection only after giving the holder of the certificate, permit, or license at least 30 days to comply with the order.

(d)(1) Without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5, the Commission may suspend a certificate or permit of a motor carrier, a permit of a *household goods* freight forwarder, or a license of a broker—

(A) if a motor carrier or broker, for failure to comply with section 10701, 10702, 10761, 10762, 10924(e), or 10927 (b) or (d) of this title, or an order or regulation of the Commission prescribed under those sections; and

(B) if a *household goods* freight forwarder, for failure to comply with section 10762 or 10927 (c) or (d) of this title, or an order or regulation of the Commission prescribed under those sections.

(2) Without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5, upon petition by the Secretary of Transportation, the Commission may suspend a certificate or permit of a motor carrier of passengers if the Commission finds that such carrier has been conducting unsafe operations which are an imminent hazard to public health or property.

(3) The Commission may suspend the certificate, permit, or license only after it gives notice of the suspension to the holder at least 15 days before the date the suspension is to begin. The suspension remains in effect until the holder complies with those applicable sections or, in the case of a suspension under paragraph (2) of this subsection, until the Commission revokes such suspension.

(e)(1) On application of a motor contract carrier who holds a permit issued under section 10923 of this title, or on complaint of a competing motor common carrier who holds a certificate under section 10922 of this title, or on its own initiative, if the Commission, after notice and an opportunity for a proceeding, determines that the operations under the permit or any part thereof—

(A) do not conform with the operations of a motor contract carrier; and

(B) are those of a motor common carrier;

the Commission may amend or revoke such permit or part thereof to conform the operations under such permit or part thereof to the operations of a motor contract carrier of property.

(2) The Commission may issue in place of any permit or part thereof revoked under this subsection a certificate under section 10922 of this title which authorizes the holder of such certificate to provide as a motor common carrier the same type of transportation between the same points or within the same territory as authorized in the permit or part thereof.

Section 10926 of that title

§ 10926. Transfers of certificates and permits

Except as provided in this subtitle, a certificate or permit issued under section 10922 or 10923 of this title—

(1) if a certificate or permit of a motor carrier, may be transferred under regulations of the Interstate Commerce Commission;

(2) if a certificate or permit of a water carrier, may be transferred under regulations prescribed by the Commission to pro-

tect the public interest and to ensure compliance with this subtitle; and

(3) if a permit of a *household goods* freight forwarder, may be transferred under regulations prescribed by the Commission to ensure compliance with this subtitle, if the Commission finds that the person to whom the permit is to be tranferred satisfies section 10923 (a) and (b) of this title. However, if the proposed transfer would affect the interests of employees of a *household goods* freight forwarder, the Commission shall require a fair and equitable arrangement to protect the interests of those employees before the transfer is effective.

Section 10927 of that title

§ 10927. Security of motor carriers, brokers, and freight forwarders

(a)–(b) * * *

(c)(1) * * *

(2) The Commission may require a *household goods* freight forwarder providing service under a permit *or a freight forwarder* to file with the Commission a bond, insurance policy, or other type of security approved by the Commission sufficient to pay, not more than the amount of the security, for loss of, or damage to, property for which the *household goods freight forwarder or the* freight forwarder provides service under this subtitle.

(d) * * *

Section 10930 of that title

§ 10930. Limitations on certificates and permits

(a) * * *

(b)(1) A person may not hold a permit of a *household goods* freight forwarder issued under this subchapter if the person is a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of chapter 105 of this title.

(2) Except for motor vehicle transportation subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title by section 10523(a)(2) of this title, a permit may not authorize a *household goods* freight forwarder to conduct direct rail, water, or motor carrier transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of that chapter.

(3) Except when the Commission finds that service to be provided as a *household goods* freight forwarder is consistent with the public interest and the transportation policy of section 10101 of this title, a person may not hold a permit of a *household goods* freight forwarder when—

(A) the principal business of the person is manufacturing and selling, or buying and selling, or both manufacturing and selling and buying and selling articles or commodities, and the service of a *household goods* freight forwarder (or similar assembling, consolidating, and shipping service is provided by the person for its own business) is commonly used to transport the articles or commodities; or

(B) the person controls, is controlled by, or is under common control with, a person referred to in clause (A) of this paragraph.

Section 10933 of that title

§ 10933. Authorizing abandonment of *household goods* freight forwarder service

When a *household goods* freight forwarder is controlled by, or under common control with, a common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, II, or III of chapter 105 of this title, the *household goods* freight forwarder may abandon any part of the service it provides subject to the jurisdiction of the Commission under subchapter IV of chapter 105, only if the Commission finds the abandonment is consistent with the public interest and the transportation policy of section 10101 of this title. On making the finding, the Commission shall issue to the *household goods* freight forwarder a certificate describing the abandonment authorized by the Commission.

CHAPTER 111. OPERATIONS OF CARRIERS

SUBCHAPTER I. GENERAL REQUIREMENTS

Sec.
11101. Providing transportation and service.

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SUBCHAPTER II. CAR SERVICE

11121. Criteria.
11122. Compensation and practice.
11123. Situations requiring immediate action.
11124. Rerouting traffic on failure of rail carrier to serve the public.
11125. Directed rail transportation.
11126. Distribution of coal cars.
11127. Service of *household goods* freight forwarders.
11128. Water emergencies; embargoes imposed by carriers.

* * * * * * *

Section 11101 of that title

§ 11101. Providing transportation and service

(a) * * *

(b) The Commission may prescribe requirements for continuous and adequate transportation and service provided by motor common carriers and *household goods* freight forwarders subject to the jurisdiction of the Commission under subchapters II and IV of chapter 105 of this title and for transportation of baggage and express by such motor common carriers of passengers.

(c) * * *

Section 11127 of that title

§ 11127. Service of *household goods* freight forwarders

(a)(1) When the Interstate Commerce Commission considers that a shortage of equipment, congestion of traffic, or other emergency

requires immediate action at a place in the United States, the Commission may—

(A) suspend any service, equipment, or facilities requirement applicable to a *household goods* freight forwarder under the jurisdiction of the Commission under subchapter IV of chapter 105 of this title;

(B) take action to promote transportation in the interest of the public and of commerce; and

(C) give directions for preference or priority in transportation, embargoes, or movement of traffic under permits.

(2) When the Commission considers that any such *household goods* freight forwarder cannot properly serve the public by providing service for the traffic offered it, the Commission may require the handling, routing, and movement of that traffic in another manner to promote commerce and service to the public. When the equipment or facilities of another *household goods* freight forwarder are required to be used, the *household goods* freight forwarder may establish terms of compensation between themselves subject to subsection (b)(2) of this section.

(b)(1) Except as provided in paragraph (2) of this subsection, the Commission may act under this section on its own initiative or on application without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5.

(2) When *household goods* freight forwarder do not agree on the terms of compensation under this section, the Commission may establish the terms for them in a later proceeding.

Section 11141 of that title

§ 11141. Definitions

In this subchapter—

(1) "carrier", "broker", and "lessor" include a receiver or trustee of a carrier (except a *household goods* freight forwarder), broker, and lessor, respectively.

(2)–(3) * * *

CHAPTER 113. FINANCE

SUBCHAPTER I. CARRIER SECURITIES, EQUIPMENT TRUSTS, AND SECURITY INTERESTS

Sec.

11301. Authority of certain carriers to issue securities and assume obligations and liabilities.

* * * * * * *

SUBCHAPTER II. OWNERSHIP

11321. Limitation on ownership of certain water carriers.

11322. Restrictions on officers and directors.

11323. Limitation on ownership of other carriers by *household goods* freight forwarders.

* * * * * * *

Section 11323 of that title

§ 11323. Limitation on ownership of other carriers by *household goods* freight forwarders

(a) A *household goods* freight forwarder, or a person controlling, controlled by, or under common control with a *household goods* freight forwarder, providing service subject to the jurisdiction of the Interstate Commerce Commission under subchapter IV of chapter 105 of this title, may not acquire control of a carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of that chapter. However, this subsection does not prohibit a carrier providing transportation under subchapter I, II, or III of chapter 105 from acquiring control of another such carrier under subchapter III of this chapter but subject to section 11321.

(b) A director, officer, employee, or agent of a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of chapter 105 of this title or a person controlling, controlled by, or under common control with one of those carriers, may not, for that person's pecuniary benefit, own, lease, control, or hold stock in a *household goods* freight forwarder providing service subject to the jurisdiction of the Commission under subchapter IV of that chapter. However, this subsection does not prohibit the holding of a director's qualifying shares of stock from which no personal pecuniary benefit is derived by the holder.

(c) This subtitle does not prohibit a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of chapter 105 of this title or a person controlling, controlled by, or under common control with one of those carriers from controlling a *household goods* freight forwarder. When that control exists, a rate, classification, rule, or practice of one of those carriers may not be found to be unlawful because of the relationship.

Section 11501 of that title

§ 11501. Interstate Commerce Commission authority over intrastate transportation

(a) The Interstate Commerce Commission shall prescribe the rate, classification, rule, or practice for transportation or service provided by a [carrier] *household goods freight forwarder* subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title when the Commission finds that a rate, classification, rule, or practice of a State causes—

(1) between persons or localities in intrastate commerce and in interstate and foreign commerce, unreasonable discrimination against those persons or localities in interstate or foreign commerce; or

(2) unreasonable discrimination against or imposes an unreasonable burden on interstate or foreign commerce.

(b)–(f) * * *

(g) No State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or

enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to interstate rates, interstate routes, or interstate services of any freight forwarders.

Section 11505 of that title

§ 11505. State action to enjoin rail carriers from certain actions

(a) * * *

(b) A transportation regulatory authority of a State affected by an abandonment of service by a *household goods* freight forwarder in violation of section 10933 of this title may bring a civil action to enjoin the abandonment.

CHAPTER 117. ENFORCEMENT: INVESTIGATIONS, RIGHTS, AND REMEDIES

Sec.
11701. General authority.
11702. Enforcement by the Interstate Commerce Commission.
11703. Enforcement by the Attorney General.
11704. Action by a private person to enjoin abandonment of service.
11705. Rights and remedies of persons injured by certain carriers.
11706. Limitation on actions by and against common carriers.
11707. Liability of common carriers under receipts and bills of lading.
11708. Private enforcement: motor carrier and *household goods* freight forwarder licensing.
11709. Liability for issuance of securities by certain carriers.
11710. Liability when property is delivered in violation of routing instructions.
11711. Dispute settlement program for household goods carriers.

Section 11705 of that title

§ 11705. Rights and remedies of persons injured by certain carriers

(a) A person injured because a carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title *or a freight forwarder* does not obey an order of the Commission, except an order for the payment of money, may bring a civil action to enforce that order under this subsection.

(b)(1) A common carrier providing transportation or service subject to the jurisdiction of the Commission under chapter 105 of this title *or a freight forwarder* is liable to a person for amounts charged that exceed the applicable rate for transportation or service contained in a tariff filed under subchapter IV of chapter 107 of this title *or the applicable freight forwarder rate.*

(2) * * *

(3) A common carrier providing transportation or service to the jurisdiction of the Commission under subchapter II or IV of chapter 105 of this title *or a freight forwarder* is liable for damages resulting from the imposition of rates for transportation or service the Commission finds to be in violation of this subtitle.

(c)–(d) * * *

Section 11706 of that title

§ 11706. Limitation on actions by and against common carriers

(a) A common carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under

chapter 105 of this title *or a freight forwarder* must begin a civil action to recover charges for transportation or service provided by the carrier within 3 years after the claim accrues.

(b) A person must begin a civil action to recover overcharges under section 11705(b)(1) of this title within 3 years after the claim accrues, *except that, in the case of a freight forwarder, such civil action must begin within 2 years after the claim accrues.* If that claim is against a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I or III of chapter 105 of this title and an election to file a complaint with the Commission is made under section 11705(c)(1), the complaint must be filed within 3 years after the claim accrues.

(c) * * *

(d) The [3-year period] *2- or 3-year periods* under subsection (b) of this section [is] *are* extended for 6 months from the time written notice is given to the claimant by the carrier of disallowance of any part of the claim specified in the notice if a written claim is given to the carrier within that [3-year period] *2- or 3-year periods.* The [3-year period] *2- or 3-year periods* under subsection (b) of this section and the 2-year period under subsection (c)(1) of this section are each extended for 90 days from the time the carrier begins a civil action under subsection (a) of this section to recover charges related to the same transportation or service, or collects (without beginning a civil action under that subsection) the charge for that transportation or service if that action is begun or collection is made within the appropriate period.

(e)–(f) * * *

Section 11707 of that title

§ 11707. Liability of common carriers under receipts and bills of lading

(a)(1) A common carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, II, or IV of chapter 105 of this title, *or a freight forwarder,* shall issue a receipt or bill of lading for property it receives for transportation under this subtitle. That carrier and any other common carrier that delivers the property and is providing transportation or service subject to the jurisdiction of the Commission under subchapter I, II, or IV are liable to the person entitled to recover under the receipt or bill of lading. The liability imposed under this paragraph is for the actual loss or injury to the property caused by (1) the receiving carrier, (2) the delivering carrier, or (3) another carrier over whose line or route the property is transported in the United States or from a place in the United States to a place in an adjacent foreign country when transported under a through bill of lading and, *except in the case of a freight forwarder,* applies to property reconsigned or diverted under a tariff filed under subchapter IV of chapter 107 of this title. Failure to issue a receipt or bill of lading does not affect the liability of a carrier. A delivery carrier is deemed to be the carrier performing the line-haul transportation nearest the destination but does not include a carrier providing only a switching service at the destination.

(2) A freight forwarder is both the receiving and delivering carrier. When a freight forwarder provides service [subject to this subtitle] and uses a motor common carrier providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title to receive property from a consignor, the motor common carrier may execute the bill of lading or shipping receipt for the freight forwarder with its consent. With the consent of the freight forwarder, a motor common carrier may deliver property for a freight forwarder on the freight forwarder's bill of lading, freight bill, or shipping receipt to the consignee named in it, and receipt for the property may be made on the freight forwarder's delivery receipt.

(b)–(e) * * *

Section 11708 of that title

§ 11708. Private enforcement: motor carrier and *household goods* freight forwarder licensing

(a) If a person provides transportation by motor vehicle or service of a *household goods* freight forwarder in clear violation of section 10921–10927, 10930–10932, or 11323 of this title, a person injured by the transportation or service may bring a civil action to enforce any such section. In a civil action under this subsection, trial is in the judicial district in which the person who violated that section operates.

(b)–(c) * * *

CHAPTER 119. CIVIL AND CRIMINAL PENALTIES

Sec.
11901. General civil penalties.
11902. Civil penalty for accepting rebates from common carrier.
11902a. Penalties for violations of rules relating to loading and unloading motor vehicles.
11903. Rate, discrimination, and tariff violations.
11904. Additional rate and discrimination violations.
11905. Transportation of passengers without charge.
11906. Evasion of regulation of motor carriers and brokers.
11907. Interference with railroad car supply.
11908. Abandonment of service by *household goods* freight forwarder.
11909. Record keeping and reporting violations.
11910. Unlawful disclosure of information.
11911. Issuance of securities; disposition of funds; restriction on ownership.
11912. Consolidation, merger, and acquisition of control: violation by a person not a carrier.
11913. Disobedience to subpenas.
11913a. Accounting principles violations.
11914. General criminal penalty when specify penalty not provided.
11915. Punishment of corporation for violations committed by certain individuals.
11916. Conclusiveness of rates in certain prosecutions.
11917. Weight-bumping in household goods transportation.

Section 11904 of that title

§ 11904. Additional rate and discrimination violations

(a)–(c) * * *

(d)(1) A *household goods* freight forwarder providing service subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title, or an officer, agent, or employee of that *household goods* freight forwarder, that knowingly and willfully as-

sists a person in getting, or willingly permits a person to get, service provided under that subchapter at less than the rate in effect for that service under chapter 107 of this title, shall be fined not more than $500 for the first violation and not more than $2,000 for a subsequent violation.

(2) * * *

Section 11908 of that title

§ 11908. Abandonment of service by *household goods* freight forwarder

A *household goods* freight forwarder controlled by or under common control with a common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, II, or III of chapter 105 of this title, or a director, officer, receiver, operating trustee, lessee, agent, or employee of that *household goods* freight forwarder or common carrier, that knowingly authorizes or permits a violation of section 10933 of this title, shall be fined not more than $5,000.

Section 11909 of that title

§ 11909. Record keeping and reporting violations

(a)–(c) * * *

(d) A *household goods* freight forwarder, or an officer, agent, or employee of that *household goods* freight forwarder, required to make a report to the Commission, answer a question, or make, prepare, or preserve a record under this subtitle about transportation subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title that (1) willfully does not make that report, (2) willfully does not specifically, completely, and truthfully answer that question in 30 days from the date the Commission requires the question to be answered, (3) willfully does not make, prepare, or preserve that record in the form and manner prescribed by the Commission, (4) knowingly and willfully falsifies, destroys, mutilates, or changes that report or record, (5) knowingly and willfully files a false report or record with the Commission, (6) knowingly and willfully makes a false or incomplete entry in that record about a fact or transaction related to the business of that *household goods* freight forwarder, or (7) knowingly and willfully makes, prepares, or preserves a record in violation of a regulation or order of the Commission, shall be fined not more than $5,000.

Section 11910 of that title

§ 11910. Unlawful disclosure of information

(a)(1)–(3) * * *

(4) A *household goods* freight forwarder providing service subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title, or an officer, agent, or employee of that *household goods* freight forwarder, or another person authorized by that *household goods* freight forwarder, or person to receive information, who knowingly and willfully discloses to another person, except the shipper or consignee, or a person that solicits or know-

ing and willfully receives (A) information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that forwarder for service provided under that subchapter without the consent of the shipper or consignee, and (B) that information may be used to the detriment of the shipper or consignee or may disclose improperly, to competitor the business transactions of the shipper or consignee, shall be fined not more than $100 for the first violation and not more than $500 for a subsequent violation. A separate violation occurs each day the violation continues.

(b)–(d) * * *

ADDITIONAL VIEWS OF MR. PACKWOOD

The surface freight forwarding industry plays an important role in our nation's freight transportation system. There is substantial competition in the freight forwarding industry, as well as vigorous competition between and among freight forwarders and trucking companies, railroads, and other transportation intermediaries. Despite this healthy competition, the surface freight forwarding industry remains subject to needless regulation by the ICC. Freight forwarders' competitors have far fewer regulatory restrictions imposed on them, which makes it difficult for freight forwarders to compete effectively with other transportation modes. Because of this, the share of freight traffic handled by freight forwarders is decreasing while their competitors' share is increasing. In fact, freight forwarders who deal with general commodities are saying that they *must* be deregulated in order to survive in today's competitive transportation marketplace.

S. 1124 removes the needless ICC regulations which hamper the operations of surface freight forwarders. S. 1124 eliminates ICC entry and rate regulation over general commodities freight forwarders and removes antitrust immunity for collective ratemaking activities in this sector of the freight forwarding industry. The reforms in S. 1124 should strengthen the general commodities freight forwarder industry and enhance competition between these freight forwarders and other transportation modes.

S. 1124 retains Federal regulation in one important area: cargo liability and claims settlement procedures. During the Subcommittee on Surface Transportation hearing on S. 1124, representatives of various shipper groups stressed the need for continued regulation in this area to ensure that freight forwarders are responsible for any loss or damage they create, as are other carriers by statute. Therefore, the provisions of the Carmack amendment (section 11707(a) of the Interstate Commerce Act) remain applicable to general commodities freight forwarders. Further, S. 1124 retains the statute of limitations contained in section 11706 of the Interstate Commerce Act within which shippers can file for overcharges by freight forwarders and other carriers. The concern raised by shippers that freight forwarders could reduce the period for settlement of overcharge claims to an unrealistically short period is understandable. S. 1124 recognizes this concern by retaining a statute of limitations, but also recognizes the need to allow freight forwarders to close their books on any given shipment within a reasonable period of time. In the interests of reducing Government interference, therefore, S. 1124 reduces this statute of limitations from 3 years to 2 years with respect to claims filed against general commodities freight forwarders.

It is important that freight forwarders have the freedom to compete effectively. It is equally important, however, that shippers

retain essential protections. I expect the increased competition resulting from this legislation to enhance the responsiveness of general commodities freight forwarders to shippers' needs. I anticipate this to be true not only with respect to liability for loss and damage and settlement of overcharge claims, but also with respect to such other concerns as the need to accommodate the desires of shippers and receivers with respect to selection of carriers. In the long run, I am hopeful that continued Government regulation to protect these shipper interests will not be necessary and that the competitive market will ensure shipper satisfaction. For the present, however, I believe the protections contained in S. 1124 serve an important function without restricting the general operational flexibility of general commodities freight forwarders intended by this legislation.

It is also important to note that S. 1124, as reported by the Commerce Committee, retains current ICC regulation over household goods freight forwarders. As introduced, this legislation deregulated *all* surface freight forwarders. At the subcommittee's hearing on this legislation, the household goods freight forwarding industry asserted that they should not be deregulated until all household goods transportation is deregulated. I personally see no need for continued economic regulation of household goods freight forwarders; the administration and the ICC share this view. Nevertheless, the position of the household goods forwarders that any deregulation of their industry should be considered by Congress separately from that of general commodities forwarders, as has been the case with household goods motor carriers and general freight motor carriers, is valid. I am hopeful that in the near future we will be able to move towards deregulation of the household goods transportation industry. At this time, however, household goods forwarders will remain subject to ICC regulation under the provisions of S. 1124.

Lastly, at the subcommittee's hearing on S. 1124, proposals for three types of additional deregulation were advanced, specifically:

1. deregulating transportation brokers;
2. deregulating frozen foods transportation; and
3. deregulating motor carrier transportation which is part of a freight forwarder movement.

I support these deregulation initiatives and am anxious to achieve further deregulation. However, I have *not* included any deregulation provisions in this bill other than those simply deregulating general commodities freight forwarders. It is not the intent of this legislation to deregulate any mode other than general commodities freight forwarders; any further deregulation of other transportation modes will be accomplished in separate legislation.

It is time that freight forwarders be relieved from the burden of unnecessary Federal regulation. S. 1124 accomplishes this important task. The benefits of this legislation will extend not only to the general commodities freight forwarder industry, but also to our Nation's overall transportation system.

BOB PACKWOOD.

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